

# Matterport Platform Subscription Agreement

Last updated: May 9, 2023

This PSA replaces and supersedes all previous versions of the PSA and Cloud Subscription Agreement referenced in any Order dated on or after May 9, 2023.

[Click here to jump to Matterport's SDK/API Terms.](#)

[Click here to jump to Matterport's Professional Services Terms.](#)

[Click here to jump to Matterport's Enterprise Addendum.](#)

BY CREATING AN ACCOUNT, ACCESSING, OR CONTINUING TO USE THE SERVICES PURSUANT TO AN EXISTING AGREEMENT, OR CLICKING THAT YOU AGREE WHEN PROMPTED BY MATTERPORT, YOU AGREE TO BE BOUND BY THE FOLLOWING PLATFORM SUBSCRIPTION AGREEMENT, AND ANY APPLICABLE SCHEDULES THAT FORM A PART HEREOF (“**PSA**”). IF YOU ARE ENTERING INTO THIS PSA ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS PSA, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY.

This PSA is entered into between Customer (“**Customer**”) and Matterport Inc., (“**Matterport**”), with its headquarters located at 352 East Java Drive Sunnyvale, CA 94089, as of the date of Customer’s first use of the Services, the Order Effective Date as set out in an Order, or the date Customer’s Platform Subscription is activated by Matterport (“**Effective Date**”).

This PSA supplements and incorporates Matterport’s online [Terms of Use](#) (“**Terms of Use**”) which govern Customer’s use of our Services and the Matterport Platform, defined below. Undefined capitalised terms used herein shall have the meaning set forth in the Terms of Use. The PSA and the Terms of Use together constitute a binding agreement between Customer and Matterport.

## 1. Definitions and Interpretation

Capitalized definitions used herein are defined in the Appendix. Any capitalized terms used but not defined in this PSA shall have the meanings set forth in the Terms of Use or any other applicable terms or Documentation applicable to the services.

## 2. Provision of Services

## **Platform Subscription Services.**

**2.1. Commencement of Platform Services.** Customer's Platform Subscription shall, unless specified otherwise in the relevant Order, commence on the later of (i) the date Matterport first provides Customer the ability to access the Platform, (ii) the effective date specified in an Order with Matterport (or an Authorised Reseller pursuant to Paragraph 13), or (iii) the date of any upgrades pursuant to an Order (such date being the "**Platform Subscription Commencement Date**")

**2.2. Licence to Platform Subscription Services.** Subject to the payment of all Platform Subscription Fees that are due and payable as of Platform Subscription Commencement Date, and Matterport's rights to suspend and terminate services as set out in the Terms of Use and in Paragraph 11 below, Matterport hereby grants to Customer, a non-exclusive, revocable, worldwide, non-transferable (except as expressly permitted in the Terms of Use), non-sublicensable, limited right to use and access the Platform Subscription Services during the Subscription Period, solely for Customer's internal business operations and in each case in accordance with the relevant Documentation.

**2.3. NOTICE OF AUTOMATIC RENEWAL.** Customer's Platform Subscription shall remain in place for the Initial Subscription Period, following the expiry of which it shall automatically renew for successive periods of equivalent length to the Initial Subscription Period (each such period being a "**Renewal Period**"), unless terminated earlier in accordance with its terms. Such renewal will occur automatically on the applicable anniversary of the Platform Subscription Commencement Date. Either Party may terminate the Platform Subscription for convenience by providing the other with written notice of not less than thirty (30) days prior to the expiration of the Initial Subscription Period or the then-current Renewal Period so that the Subscription Period will end on the last day of the current subscribed period. Customer's Platform Subscription may be cancelled at any time by accessing the account settings on Customer's Matterport Platform Account at <https://my.matterport.com/>. Customer agrees that upon such renewal, the credit card or other designated payment method in Customer's account settings will be billed the applicable Platform Subscription Fee for Customer's Platform Subscription Plan then in effect at the time of renewal.

**2.4. Platform Subscription Plans.** Customer may have the ability to select from several [Subscription Plans](#) which are set out in the Matterport Website or in an Order and updated from time to time (a "**Platform Subscription Plan**"). Matterport reserves the right to modify the features of any Subscription Plan at any time, subject to any Subscription Plan features agreed in an Order for the Subscription Period of such Order.

### **2.5. Affiliates.**

2.5.1. The Parties each acknowledge and agree that Customer's Affiliates shall be entitled to place Orders with Matterport pursuant to the terms of this PSA, subject to:

2.5.2. the compliance by each such Affiliate with the terms of this PSA (it being acknowledged that, save to the extent expressly stated otherwise (including, without limitation, in Clause 12.3),

the terms of this PSA shall apply to such Affiliate in the same manner and to the same extent as such terms apply to Customer); and

2.5.3. Customer shall remain liable for the acts and omissions of any such Affiliate; and

2.5.4. In the event that Customer or its Affiliate wishes to enter into a new Order, it shall notify Matterport and Matterport shall prepare a new Order. Following the execution of the order form by both Matterport and Customer (or its Affiliate, as applicable), the order form shall constitute a valid and binding Order for the purposes of this PSA.

**2.6. Trials.** Matterport may, in its sole discretion, offer Customer a free of charge trial in order to enable Customer to test and experience the Platform Subscription Services (a “**Trial**”). Where applicable, Customer’s Trial will commence on the date notified to Customer in writing by Matterport, immediately prior to which Customer shall be provided with access to the Platform. For the avoidance of doubt, the terms of Paragraph 5 of this PSA (Fees and Payment) shall not apply to any free Trial (provided, however, that if Customer places an Order for a Platform Subscription following the end of a Trial, Customer’s continued use and access to the Platform Subscription Services will be subject to the payment of all relevant Fees due pursuant to such Order to Matterport or an Authorized Reseller).

## **2.7. Additional Services.**

2.7.1. From time to time, Matterport may make available through the Platform or otherwise, pursuant to an Order, additional services, optional features, and their related assets or output generated pursuant to the provision of such services (“**Matterport Digital Assets**”) that are not Platform Subscription Services and may require the payment of Additional Fees. These additional services (“**Additional Services**”) include, but are not limited to (a) schematic floor plans created from a Matterport Space (“**Schematic Floor Plan Services**”); (b) “BIM files”, from Customer’s existing Matterport Spaces (“**Matterport BIM File Services**”); (c) Matterport’s creation of a standard .obj export file, point cloud file, RCP file or other supported file (or set thereof) that is exportable from Customer’s existing Matterport Spaces and which can be utilized by Customer outside of the Platform (“**MatterPak File Services**”) (d) TruePlan files from Customer’s existing Matterport Spaces stored on the Platform (“**TruePlan Services**”); (e) files generated by Matterport in the format “.E57” containing a high-density point cloud for all scan locations in a Matterport Space “**Matterport E57 File**”); or (f) retrieval of an Archived Space

2.7.2. All use of Additional Services shall require Customer to designate and make available to Matterport the Matterport Space(s) in respect of which Customer is requesting the Additional Services. Customer will be invoiced at the end of each calendar month in respect of each Matterport Digital Asset which has been successfully made available to view and download from the Platform during the preceding calendar month. Subject to the payment of all applicable Additional Fees to Matterport or an Authorized Reseller, Customer shall have the right to download the associated Matterport Digital Assets an unrestricted number of times during the Subscription Period. Matterport reserves the right to terminate the Additional Services at any time in its sole discretion, provided however that in such circumstances, Matterport or an

Authorized Reseller, as applicable, will provide Customer with a refund in respect of any amounts paid to Matterport in advance which relate to Additional Services which have not, as at the date of termination of the relevant Additional Service, been provided to Customer. Once the Additional Services terminates, Matterport will have no further obligation to create or provide any further Additional Services ordered or requested after the date of termination.

**2.7.3. NOTICE OF AUTOMATIC RENEWAL.** Subject to Paragraph 2.8.1 of this PSA, Customer's subscription in respect of each Additional Service shall, unless specified otherwise in the relevant Order, commence on effective date specified in the relevant Order and remain in place for the duration of the specified subscription period (the "**AS Subscription Period**"), following the expiry of which it shall automatically renew for successive periods of equivalent length to the AS Subscription Period (each such period being a "**AS Renewal Period**"), unless terminated earlier in accordance with its terms. Either Party may terminate an Additional Service Subscription for convenience by providing the other with written notice of not less than thirty (30) days prior to the expiration of the AS Subscription Period or the then-current AS Renewal Period so that the Subscription Period will end on the last day of the current subscribed period. Customer's subscription in respect of each Additional Service may be cancelled at any time by accessing the [my.matterport.com](https://my.matterport.com) page on Customer's Matterport Platform Account.

**2.7.4.** The provisions set out in this Paragraph 2.8. of this PSA shall not apply with respect to the Matterport BIM Service, the term of any subscription in respect of which shall remain in force only for the duration specified in the relevant Order.

**2.8. Additional Functionality.** To the extent that Customer places an Order which requests the use of and access to Additional Functionality, the provision of such Additional Functionality (and Customer's access to and use of the same) shall be governed by the terms set out in Schedule 1 to this PSA.

**2.9. Third-Party Services.** From time to time, Matterport may make Third-Party Services available through the Platform, the use of which may (in each case) be subject to: (a) the payment of Additional Fees; and (b) Customer's acceptance of the terms and conditions of the relevant Third-Party Contract (which shall be presented to Customer for acceptance in accordance with the terms set out in Paragraph 7 of this PSA (Third-Party Services)). If Customer does not agree to abide by the applicable Third-Party Contract, then Customer should not install, access, or use such Third-Party Services.

## **3. Customer's Use of and Access to the Platform and Services**

**3.1. Provision of Access.** Upon the commencement of Customer's Subscription Period, Customer shall be provided with User Credentials (or otherwise provided with the means to generate User Credentials), following which Customer may allow its Authorized Users to use the

Platform Subscription Services (and, where relevant, Additional Services) for the purposes set out in this PSA, and Customer is responsible for their compliance with the terms set out herein.

**3.2. Use Restrictions.** Without prejudice to the terms set out in paragraph 2 of the Terms of Use, Customer shall further not (and shall not permit any Authorized Users to, either directly or indirectly, in whole or in part to

3.2.1. use the Platform, the Additional Services or the Additional Functionality, for any purpose other than as set out in or as otherwise permitted by the Terms of Use or this PSA.

3.2.2. use any deep-link, page-scrape, spider, robot, crawl, index, or other automatic device, program, algorithm, or technology to use, access, copy, acquire information from, generate impressions on, input information to, store information on, search on, generate searches on or monitor any portion of the Platform, other than as explicitly permitted by Customer's Platform Subscription and/or any Matterport API.

## 4. Customer's Responsibilities

**4.1. Acceptable Use.** Customer will not (and shall ensure that each Authorized User does not) use the Platform Services or the Additional Functionality for any unlawful, fraudulent, offensive, or obscene activity in violation of Matterport's Terms of Use and shall ensure that all usage of the Platform Services and, where relevant, the Additional Functionality, by Customer and its Authorized Users is at all times in compliance with the terms of this PSA and the Terms of Use.

**4.2. Responsibility for Customer Image Data.** Customer is solely responsible for the development, content, operation, maintenance, accuracy, legality, integrity and use of Customer Image Data and shall ensure that Customer Image Data does not comprise: (a) any content which Customer does not own or otherwise have an appropriate license, consent or permission in respect of; (b) any content that is or is otherwise reasonably considered by Matterport to be harmful, threatening, unlawful, defamatory, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, hateful, or otherwise objectionable; or (c) any content that infringes or misappropriates any third-party right (including Intellectual Property Rights), or is invasive of any privacy or publicity right. For the avoidance of doubt, Customer shall obtain in advance all consents, approvals, licenses, and permissions necessary to capture and use imagery of any Subject Property. Matterport shall have the right (but not the obligation) in its sole discretion and at any time to remove from the Platform any Customer Image Data that violates this PSA, the Documentation, or that is otherwise objectionable.

**4.3. Responsibility For Appropriate Designation.**

4.3.1. **Generally.** Customer has the ability to designate any Matterport Space or Customer Image Data hosted on the Platform as "private" (i.e., only accessible by Customer via the Platform), "restricted" (i.e., accessible by anyone that possesses the related password or link), or "public" (i.e., accessible by anyone on the internet and publicly available and discoverable on the

Platform). Customer acknowledges this is a feature which is a part of, and cannot be removed from the Platform, and Customer is solely responsible for ensuring the appropriate designation of its Spaces.

**4.3.2. Third-Party Interaction.** In the event that Customer designates a Matterport Space or Customer Image Data as “public” or “restricted” access, Customer acknowledges that third parties may interact with such Matterport Space or Customer Image Data (which shall include being permitted to take measurements, adding annotations or comments, saving and sharing links to such Matterport Space or Customer Image Data), and any rights (including Intellectual Property Rights) that arise as a result of such third-party interactions shall be solely owned by Matterport.

**4.3.3. Public Links.** In the event Customer designates any Matterport Space or Customer Image Data as “public” and publicly shares, or otherwise makes available on the internet a link to any Matterport Space, Matterport shall not be responsible for the resulting discoverability or accessibility of the Matterport Space or Customer Image Data on the Platform, and Matterport will have the same right to share such link as any other internet user.

**4.4. Matterport Digital Assets.** Customer shall be responsible for: (a) any content of the Matterport Spaces; (b) the content of any Matterport Digital Assets created from the Matterport Spaces; and (c) the consequences of sharing or publishing any Matterport Digital Assets, including (without limitation) the disclosure of Customer’s confidential information or Customer Personal Data. Customer hereby affirms, represents, and warrants that Customer owns or has the necessary licenses, rights, consents, and permissions necessary for the creation of any Matterport Digital Assets.

**4.5. User Credentials.** Customer is responsible for keeping its User Credentials secure and confidential and shall, where applicable, take steps to ensure that all Authorized Users do the same. Customer is (and, where applicable, each Authorized User is) prohibited from selling or transferring (or seeking to sell or transfer) any User Credentials to any other person or entity. Customer will promptly notify Matterport if Customer becomes aware of any unauthorized access to User Credentials. Customer is responsible for maintaining and managing its User Credentials and authorised account administrators.

**4.6. Account Data.** Customer shall provide Matterport with complete and accurate information for Customer’s Platform account, including Customer’s billing and payment information, and shall ensure that such information remains up to date throughout Customer’s Subscription Period. From time to time, Matterport may require certain additional information from Customer in order to maintain Customer’s account, or to satisfy certain government and regulatory requirements. Customer agrees to provide such information in a timely fashion.

## **5. Fees and Payments**

**5.1. Fee Increases.** Matterport reserves the right to increase or otherwise modify any applicable Platform Fees at any time by posting details of the revised Platform Fees the Matterport Website, provided that the revised amount of such Platform Fees shall not apply to Customer until: (a) with respect to Platform Subscription Fees, the commencement of the next Renewal Period; b) with respect to Services subject to AS Subscription Fees, the commencement of the next AS Renewal Period; and (c) with respect to any other Additional Fees, at such time as the relevant Service in respect of which the relevant Additional Fees are payable is consumed or renewed in a subsequent Order.

**5.2. Fees.** Matterport shall invoice Customer in respect of: (a) Platform Subscription Fees, upon the Subscription Commencement Date and at the commencement of each Renewal Period; and (b) any Additional Fees which are payable pursuant to an Order, in accordance with the terms set out therein or as otherwise detailed in the Price List on the Matterport Website.

## **6. Service Levels and Support**

**6.1. Service Levels.** Subject to the terms and conditions of this PSA, Matterport shall use commercially reasonable efforts to make the Platform available, exclusive of downtime necessary for scheduled and emergency maintenance.

**6.2. Support.** During the Subscription Period, Matterport shall provide reasonable technical support (including clarification of the functions and features of Platform Subscription Services and guidance regarding their operation but excluding any form of specific consulting).

## **7. Third-Party Services**

**7.1. Use of Third-Party Services.** The Platform facilitates the purchase of certain services (“**Third Party Services**”) provided by third parties (“**Third-Party Providers**”). All such Third-Party Services are provided by and licensed to Customer by the relevant Third-Party Provider, subject to the terms of a relevant contract between Customer and the Third-Party Provider (“**Third-Party Contract**”). Matterport acts as an agent for Third-Party Providers in relation to the marketing, and in some instances, sales of Third-Party Services and is not a party to any Third-Party Contract that is entered into. The Third-Party Provider will be solely responsible for fulfilling any order that Customer places for Third-Party Services and for: (a) the quality, content, and availability of such Third-Party Services; and (b) any Claims that Customer may wish to bring in relation to any Third-Party Service. For the avoidance of doubt, Matterport will not provide any customer support or technical support with respect to any Third-Party Service.

**7.2.** Customer acknowledges and agrees that Matterport is a third-party beneficiary of each Third-Party Contract and may, where relevant, therefore enforce such Third-Party Contract against Customer.

**7.3.** Matterport will make available to Customer, in respect of each Third-Party Service that is purchased by Customer, a link to the applicable Third-Party Contract. In respect of some Third-Party Services, Matterport may facilitate the payment of Fees due in respect of a Third-Party Service to the relevant Third-Party Provider (however, for the avoidance of doubt, the pricing applicable to all Third-Party Services is determined by the Third-Party Provider (in each case)).

**7.4.** If Customer chooses to purchase any Third-Party Service: (a) Customer agrees that Matterport may provide or make available all necessary Customer Image Data to the relevant Third-Party Provider(s) in connection with the Third-Party Service; (b) if applicable, Customer agrees to designate to Matterport the Customer Image Data that Customer desires to use in connection with the Third-Party Service; (c) Customer shall be responsible for: (i) any Customer Image Data that Customer designates for use; (ii) content created from any such Customer Image Data; and (iii) the consequences of sharing or publishing such Customer Image Data or content generated from the Customer Image Data, including without limitation the disclosure of Customer's confidential information or Customer Personal Data; and (d) Customer affirms, represents, and warrants that Customer owns or has the necessary licenses, rights, consents, and permissions to use Customer Image Data in connection with any Third-Party Service.

**7.5. Disclaimer; Limitation of Liability for Third-Party Services.** Matterport hereby disclaims all warranties and conditions with respect to any Third-Party Service, and warranties, if any, with respect to any Third-Party Service are made solely by the applicable Third-Party Provider in the relevant Third-Party Contract. In no event will Matterport or its affiliates or licensors have any liability to customer, customer's affiliates, or its or their respective users or customers for any damages of any nature (whether, direct, indirect, or otherwise) arising out of or related to any act or omission of a Third-Party Provider (or any sub-contractor acting on its behalf) including, without limitation: (a) any failure of any Third-Party Provider to deliver any Third-Party Service or Customer's use of or inability to use any Third-Party Service; (b) any Security Incident caused by any Third-Party Provider or its sub-contractors; (c) any failure of a Third-Party Provider or its sub-contractors to use appropriate organizational and/or technical security measures to protect Customer Data from any Security Incident; or (4) any unauthorized redistribution or display of any Customer Image Data (or portion thereof) by any third-party, including without limitation through any unauthorized embedded links or code on a third-party website or app.

## **8. Privacy, Data Security & Confidentiality**

**8.1.** Customer shall not via any means provide or make available to Matterport any special category data (as such term is defined in the UK GDPR or other applicable privacy laws).

8.1.1. Without prejudice to the foregoing, Customer agrees that neither Customer nor any Authorized User shall intentionally upload any Personal Data (as such term is defined in the UK GDPR or other applicable privacy laws) to the Platform. Customer shall take all steps reasonably necessary to ensure the risk of the unintentional capture of Personal Data by the Platform (howsoever arising) is minimized.

8.1.2. Without prejudice to Paragraph 8.1 of this PSA, to the extent that any Personal Data is captured in or is otherwise evident from Customer Image Data, Customer shall ensure that it has obtained (or are otherwise in possession of) all necessary rights, permission or consents necessary to enable the upload of such Customer Image Data to the Platform. All such Personal Data shall be processed by Matterport in accordance with Matterport's [Privacy Policy](#) and, where relevant, Matterport's Data Processing Addendum. Customer acknowledges that, if Customer purchases Platform Services or other Matterport services from an Authorized Reseller, in order to permit Matterport to provision such services, such Authorized Reseller may share Customer Personal Data with Matterport, or Matterport may share Customer Personal Data with such Authorized Reseller. Customer hereby expressly consents to such disclosure and use of Customer Personal Data.

**8.2. Data Security.** Matterport shall implement and maintain appropriate security measures (including, among other things, technical, physical, and organizational measures) for the purposes of securing the Services. Further details of such measures may be found on the Matterport Website, here: <https://matterport.com/legal/security-practices>.

### **8.3. Confidentiality.**

8.3.1. In the event Customer discloses any confidential information to Matterport, Matterport will maintain the confidentiality of Customer's confidential information and to use it only for purposes related to the performance of this PSA. Matterport further agrees to protect Customer's confidential information with at least the same degree of care as it uses to protect its own confidential information of a similar nature, and to disclose such information only to those of its employees and agents who have a need to know such information and who are bound by confidentiality obligations at least as restrictive as those set forth herein.

8.3.2. None of the obligations or restrictions set forth in this Paragraph 8 shall apply to Matterport's use and disclosure of Customer Image Data, Aggregated Data, or to Matterport's distribution to third parties or public display of any Matterport Space or Customer Image Data to the extent such distribution or publication was directed by Customer or any Authorized User via the Services or otherwise.

## **9. Intellectual Property Rights**

**9.1. General Ownership.** As between Customer and Matterport, (a) Matterport owns all right, title, and interest, including all Intellectual Property Rights, in and to the Matterport Technology; and (b) Customer owns all right, title, and interest, including all Intellectual Property Rights, in and to the Customer Data.

**9.2. Ownership of Matterport Spaces.** Without prejudice to Paragraph 9.1, but subject to Paragraphs 4.3 and 9.3 of this PSA, Customer shall own all rights (including Intellectual Property Rights) in and to each Matterport Space and Matterport hereby assigns to Customer, by way of a present assignment of a future right, all its right, title, and interest in and to each Matterport Space.

**9.3. Right to Use Matterport Spaces.** Matterport shall, both during the term of this PSA and thereafter, have the right to otherwise use each Matterport Space for such purposes and in such ways as Matterport may require in connection with the operation of its business (the “Purpose”) and Customer hereby grants to Matterport a non-exclusive, irrevocable, perpetual, royalty-free, sub-licensable license to otherwise use each Matterport Space for the Purpose.

**9.4. License of Customer Data.** Subject to the terms and conditions of this PSA, Customer hereby grants to Matterport a non-exclusive, irrevocable, non-transferable (except as expressly permitted under this PSA), non-sublicensable (except as expressly permitted under this PSA), worldwide, royalty-free right and license to Customer Data: (a) during the Subscription Period, to host, reproduce, modify, process, publicly display, distribute, use and prepare derivative works from the Customer Data for the purpose of providing the Platform Services; and (b) during the Subscription Period and thereafter to create Matterport Data.

**9.5. Matterport Digital Assets.** As between Matterport and Customer, all right, title and interest in and to the Matterport Digital Assets created by Matterport on behalf of Customer (and all Intellectual Property Rights therein) are and shall be owned by Matterport. Subject to the payment of all relevant Additional Fees that are due to Matterport or an Authorized Reseller in respect of the applicable Additional Services, Matterport hereby grants to Customer an irrevocable, sublicensable, non-exclusive, perpetual, worldwide license to use, evaluate, reproduce, display, and distribute each Matterport Digital Asset that is produced from the performance of the Additional Services; provided however that Customer shall ensure all such sub-licensees utilize such Matterport Digital Assets in accordance with the Terms of Use. Notwithstanding the foregoing, Customer acknowledges that Matterport Digital Assets can only be generated through the Platform (and that there are therefore technical limitations on the extent to which Matterport Digital Assets may be accessed or otherwise viewed by third parties), however, pursuant to the license herein, Customer will be free to host, reproduce and distribute any Matterport Digital Assets that Customer downloads. Customer acknowledges that it will not have the right to (a) to resell any Digital Assets; and (b) access any of the Matterport Digital Assets stored on the Platform following the expiration or termination of the Subscription Period. All rights not expressly granted herein are reserved by Matterport, and Customer may use Matterport Digital Assets only as expressly permitted by this Paragraph 9.5.

**9.6. Matterport Data.** Customer acknowledges and agrees that Matterport may throughout the Subscription Period: (a) monitor Customer’s use of the SaaS Services to create Usage Data; and (b) develop LPI Data and Generic Space Data. Customer further acknowledges that Matterport may (a) make Matterport Data publicly available in compliance with applicable law, and (b) use Matterport Data to the extent and in any manner permitted under applicable law (it being acknowledged, for the avoidance of doubt, that Matterport Data does not identify Customer, the Subject Property or Customer’s confidential information). For the avoidance of doubt, the Parties acknowledge and agree that Matterport shall be entitled to (i) combine Matterport Data obtained in connection with this PSA with similar data held by Matterport (whether obtained by Matterport from other customers of Matterport or from third parties); and (ii) use such combined/aggregated data to the extent and in any manner permitted by applicable law.

**9.7. Digital Millennium Copyright Act.** Matterport will respond to notices of alleged infringement in compliance with the Digital Millennium Copyright Act (“DMCA”). If Customer is a copyright owner or an agent thereof, and Customer believes that any content hosted on the Platform infringes Customer’s copyrights, then Customer may submit a notification to legal@matterport.com.

**9.8. Marks.** The Marks displayed on or in the Platform, the Services and the Documentation are the property of Matterport. Customer shall not: (a) use or allow the use of any Mark without the prior written consent of Matterport; or (b) take steps to alter, cover or otherwise obscure from view any Mark that is displayed on the Documentation or the Platform Services or any Matterport Space, Matterport Digital Asset or other Matterport property. In the event Customer displays any trademark, logo, service mark, trade name or other branding on any page on which Customer displays any Matterport Space or Matterport Digital Asset or in any other place where Customer promotes the use of a Matterport Space or Matterport Digital Asset, Customer shall not do so in a manner that implies, or reasonably could imply, that the whole or any portion of the Matterport Technology used to generate or provide any Matterport Space or Matterport Digital Asset is owned by Customer or any third-party. In the event that Matterport becomes aware that Customer’s use of the Marks does not comply with the terms of this PSA (as determined by Matterport in its sole discretion), Matterport shall notify Customer of this, and Customer shall remedy the relevant non-compliance in accordance with the requirements set out in such notice. Any failure to fully comply with such notice shall constitute a material breach of this PSA.

## **10. Representations, Limited Warranty and Disclaimer**

**10.1. Matterport Limited Warranty.** Subject to Paragraph 10 of the Terms of Use, Matterport warrants that it (a) provides the Platform Subscription Services using commercially reasonable efforts in accordance with standards generally accepted in Matterport’s industry; and (b) uses industry-standard methods designed to ensure that the Platform Subscription Services do not contain software viruses or other unauthorized or malicious code. FOR THE AVOIDANCE OF DOUBT, THE FOREGOING WARRANTY IN THIS PARAGRAPH AND PARAGARPH 10 OF THE TERMS OF USE DOES NOT APPLY TO, AND MATTERPORT STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY SERVICES.

**10.2. Customer Warranty.** Customer warrant that: (a) Customer own all right, title, and interest, including all Intellectual Property Rights, in and to Customer Data and has all rights, consents and/or permissions necessary to grant Matterport the licenses of Customer Data set out in this PSA; and (b) that both the Customer Data and Customer’s use of the Platform are and shall throughout the Subscription Period be in compliance with the Terms of Use and shall not infringe the rights (including Intellectual Property Rights) of any third-party.

## **11. Effect of Suspension and Termination**

**11.1. Suspension.** Notwithstanding the provision of Paragraph 9 of the Terms of Use, Matterport may suspend Customer's access to and use of the Platform Subscription Services and or Additional Services at any time on notification to Customer for any breach of any agreement between Customer and Matterport.

**11.2. Access.** Upon the termination or expiry of Customer's Platform Subscription, Customer's access to the Platform Services (and the access of every Authorized User) will be deactivated and Customer will cease to have any ability to export any previously purchased Matterport Digital Assets or Customer Image Data in Customer's Platform account in file formats available through functionality in Customer's Platform account. Matterport will cease to have any obligation following the termination or expiry of Customer's Platform Subscription to provide to Customer: (a) any Matterport Technology (including, without limitation, any technology used to display any Matterport Space); or (b) access to the Platform for the purpose of exporting Matterport Digital Assets.

**11.3. Licenses Granted to Matterport.** Save to the extent expressly stated to expire upon the termination or expiry of Customer's Platform Subscription, no license granted to Matterport by Customer shall terminate as a result of the termination or expiry of Customer's Platform Subscription and Matterport shall be entitled to continue to utilize all such licensed rights.

**11.4. Deletion of confidential information and Personal Data.** To the extent legally permissible, at termination or expiration of Customers Platform Subscription, and upon receipt of a written demand from Customer sent to Matterport pursuant to the Notice provision of the Terms of Use, Matterport, will delete all copies of Customer's confidential information in its possession or under its control. All Customer Personal Data shall be deleted by Matterport in accordance with Matterport's Privacy Policy and, where relevant, Matterport's Data Processing Addendum.

## **12. Limitation of Liability**

**12.1. Generally.** Notwithstanding Paragraph 11 of the Terms of Use, in no event will the total cumulative liability of either Party (whether such liability arises in contract, tort (including negligence) or otherwise) to the other Party in respect of Losses arising out of, or in connection with this PSA, exceed the total Fees paid to Matterport or an Authorized Reseller, as applicable, during the twelve (12) month period immediately prior to the date the cause of action arose. Neither Party shall be liable to the other Party (whether such liability arises in contract, tort (including negligence) or otherwise), even if such Party was notified or was otherwise aware of the possibility of such Loss, for: (a) any loss of profit, loss of or damage to data, loss of anticipated savings or interest, loss of use, loss of or damage to reputation or goodwill, the cost of procurement of substitute goods or services; or (b) any indirect, special, consequential, exemplary or reliance damages, loss, costs, claims or expenses of any kind. Matterport shall not

be liable to Customer in respect of any Loss incurred by Customer as a result of: (a) the unauthorized redistribution or display of the Services (or portion thereof) by any third-party, including without limitation through any unauthorized embedded links or code on a third-party website or app; (b) any Loss arising from a failure or delay in the performance of its obligations under this PSA to the extent that such failure or delay was caused or contributed to by an act or omission of Customer or its employees, or any third-party; (c) any disruption to Services, including downtime, outages; or (d) inaccurate information received by Customer as a result of Matterport performing maintenance of the Services.

**12.2. Exclusions.** The exclusions and limitations of liability in this PSA shall not apply in respect of: (a) any liability of Customer to pay any Fees; (b) any violation by Customer of the Terms of Use or this PSA; (c) any Loss suffered by any person arising out of the fraud and/or fraudulent misrepresentation of the Party seeking to rely on the exclusion or limitation; (d) death or personal injury resulting from negligence on the part of the Party seeking to rely on the exclusion or limitation; or (e) any liability of either Party that cannot otherwise be excluded or limited under applicable law.

**12.3. Applicability to Affiliates.** If applicable, and notwithstanding any other Clauses of this PSA, Customer acknowledges and agrees that in the event that a Customer Affiliate enters into an Order with Matterport: (a) any Losses incurred by such Customer Affiliate pursuant to or in connection with such Order will be treated as a Loss suffered by Customer and, to the extent that pursuant to the terms of this PSA such Loss would be recoverable by Customer from Matterport had such Loss been suffered by Customer, such Loss shall only be recoverable by Customer against Matterport; and (b) any Losses incurred by Matterport pursuant to or in connection with such Order due to an act or omission of Customer's Affiliate (or an Authorized User of such Customer Affiliate) will be treated as if such Loss had been caused by or contributed to by Customer and shall be recoverable by Matterport against Customer to the same extent that Customer would be liable to Matterport pursuant to the terms of this PSA had the relevant act or omission been committed by Customer.

## 13. Reseller Orders

If Customer orders any Platform Services from an Authorized Reseller pursuant to an Order between Customer and the Authorized Reseller: (a) all references to an Order in this PSA shall mean the applicable the Order between Customer and the Authorized Reseller; (b) Paragraph 5 (Fees and Payments) is superseded by the terms set forth in the applicable Order between Customer and the Authorized Reseller, and fees set forth in such Order shall paid directly to the Authorized Reseller, as applicable; (c) Matterport shall provide all credits or refunds owed by Matterport to the Authorized Reseller and not to Customer, and Customer shall look to the Authorized Reseller for such credits and refunds; (d) Paragraph 6 (Service Level Support) is superseded by the applicable Order between Customer and the Authorized Reseller; and (e) Matterport shall have no responsibility or liability with respect to any failure by the Authorized Reseller to issue credits or refunds to Customer. Notwithstanding anything to the contrary, unless Matterport provides signed written authorization to Customer, no additional terms in any Order

between Customer and an Authorized Reseller shall be binding on Matterport, and this PSA shall prevail in the event of any conflict between this PSA and any Order between Customer and an Authorized Reseller.

## 14. Publicity Rights

Unless Customer notifies Matterport in writing that Customer do not wish for Matterport to list Customer's name and logo, Matterport will have the right to include, Customer's name and Customer's logo (if any) in any lists that identifies customers of Matterport, including but not limited to on the Matterport Website, sales collateral, and marketing materials.

## 1. Definitions Appendix

In this PSA, the following words and expressions shall have the following meanings, unless the context requires otherwise:

**“Additional Fees”** means, if applicable, Additional Functionality Subscription Fees, as well as any fees payable to Matterport or an Authorized Reseller in respect of: (a) Platform Subscription Services provided in excess of those within the scope of Customer's Platform Subscription Plan; (b) Additional Services (as defined herein); (c) if applicable, Third-Party Services.

**“Additional Functionality”** means the Matterport SDK and Matterport API functionality made available by Matterport via the Platform (to the extent the subject of an Order), subject to the payment of the applicable Additional Fees to Matterport or an Authorized Reseller.

**“Affiliate”** means any current or future entity that directly or indirectly controls or is controlled directly or indirectly by or is under common control with, a Party. For the purposes of the foregoing “control” shall be understood as direct or indirect ownership of at least 50% of the share capital or the voting rights of an entity, or of the right to direct the management of an entity.

**“Anonymized Data”** means any data extracted from Customer Data, from which all Personal Data has been removed, such that the Customer is no longer identifiable from such data (or may otherwise be associated with such data).

**“Authorized Reseller”** means any third-party reseller who has a reseller agreement with Matterport to resell Matterport services, including but not limited to, Platform Services.

**“Authorized Users”** means each of Customer's employees, consultants, contractors, agents, and third-party collaborators who are authorized by Customer to access and use the Platform and the Platform Services and, where applicable, Additional Functionality, pursuant to this PSA

(whether via the provision of a username and password combination via which the Platform is made accessible by Matterport (“User Credentials”) or otherwise).

“**Customer Data**” means any and all information, data, and other content, in whatever form or medium, that is submitted, posted, or otherwise transmitted to Matterport in connection with the use of the Platform by Customer (or its Authorized Users), including (without limitation) Customer Image Data and Customer Personal Data, but excluding Matterport Data.

“**Customer Image Data**” means any Customer Data that is uploaded, submitted, or otherwise posted to the Platform by or on behalf of Customer in the form of images (whether 2D or 3D), and including (without limitation) all associated text, notes, tags, annotations, hyperlinks, images, videos, and any other rich media content (“**Mattertags**”) that may be uploaded by Customer or an Authorized User to a Matterport Space

“**Customer Personal Data**” means any Customer Data which would be considered Personal Data, as such term may be defined in any privacy and data protection laws applicable to the Platform Services.

“**Documentation**” means any user manuals, help guides, technical documentation, specifications, and other materials, made available by to Customer, on the Matterport Website or otherwise, in connection with the use of the Platform Services including, but not limited to, the Subscription Plans, and price list, and any updates, modifications, or enhancements to such materials that may be provided from time to time.

“**Generic Space Data**” means Anonymized Data relating to the structure, materials and fixtures of a Subject Property.

“**Initial Subscription Period**” means the the period from the Platform Subscription Commencement Date through (i) for a monthly Platform Subscription, the last day of the current monthly term; or (ii) for an annual Platform Subscription, the date which is twelve (12) calendar months from and including the Platform Subscription Commencement Date, or as otherwise specified in an Order.

“**Learning and Process Improvement (LPI) Data**” means Anonymized Data, content and other materials that result from the Matterport Production Process for the purpose of providing or improving the Platform.

“**Matterport Data**” means Anonymized Data that Matterport extracts through the analysis of Customer Data, and includes all Generic Space Data, Usage Data and LPI Data.

“**Matterport Space**” or “**Space**” means a 3D representation of a property created (a) via the Matterport Production Process and (b) displayed and accessible only via a visual web page, available solely via a link to the Platform (“**Showcase**”).

“**Matterport Technology**” means all technology and data created by Matterport, including without limitation: (a) the Platform; (b) embedded technology in any camera equipment

developed by or on behalf of Matterport from time to time and made available for use by customers (a “**Matterport Cameras**”); (c) the Matterport Production Process and any artificial intelligence, machine learning, depth-perception or other algorithms therein; (d) the Positional Technology that detects specifies the location digital objects within a Matterport Space; (e) Matterport Data; (f) Matterport Digital Assets; (g) system performance data, workflows, know-how, object segmentation, auto-generated labels, space indexing, computer vision created by Matterport; (h) the Additional Functionality; and (i) and any subsequent improvements to any of the foregoing.

“**Order**” means a written, click to accept or electronic document entered into between Customer and Matterport (or an Authorized Reseller) for ordering the Services.

“**Platform**” means Matterport’s proprietary cloud-based application platform, via which the Platform Services are made available by Matterport.

“**Platform Fees**” means the Platform Subscription Fees and any applicable Additional Fees

“**Platform Services**” means the Platform Subscription Services and any Additional Services that are the subject of an Order.

“**Platform Subscription**” means Customer’s right (and the right of its Authorized Users) to access and use the Platform Subscription Services in accordance with the terms set out in this PSA for the duration of the Subscription Period, at the Subscription Plan and in respect of the number of Authorized Users, in each case, as may be specified in an Order.

“**Platform Subscription Services**” means the services that are provided by Matterport as part of a Platform Subscription, including, without limitation, the Platform, and the creation of Matterport Spaces.

“**Platform Subscription Fees**” means the fees payable to Matterport or an Authorized Reseller in respect of a Platform Subscription, as set out in the Order.

“**Subject Property**” means the structure, location, or premises in respect of which: (a) a Matterport Space is created; and (b) to the extent specified in an Order, Capture Services are provided.

“**Subscription Period**” means the Initial Subscription Period and each subsequent Renewal Period

# Matterport PSA Schedule 1

## SDK and API Terms

The terms set out in this Schedule are applicable to Customer’s use of and access to Additional Functionality, and form a part of the PSA.

# 1. Definitions

“**Abusive Usage**” means: (a) in respect of a Matterport API: (i) utilising the same for the purposes of accessing Matterport Content that the Customer would not, in the ordinary course, have access to; (ii) utilisation of the same to download Matterport Content to facilitate the hosting or storage of such Matterport Content outside of the Platform; (iii) making unnecessarily repetitive calls (as determined by Matterport in its sole discretion, acting reasonably); (iv) utilising the same for the purposes of bypassing (or seeking to bypass) Platform features and restrictions; or (v) utilisation of a Matterport API in such other manner or to such an extent that Matterport, in its sole discretion (acting reasonably) determines such usage to be abusive; and (b) in respect of a Matterport SDK: (i) utilisation of the same to download Matterport Content to facilitate the hosting or storage of such Matterport Content outside of the Platform; (ii) the reverse engineering of a Matterport SDK for the purposes of locating and identifying Matterport’s internal APIs and/or private or otherwise unreleased functionality; or (iii) utilisation of a Matterport SDK in such other manner or to such an extent that Matterport, in its sole discretion (acting reasonably) determines such usage to be abusive.

“**Additional Functionality Subscription**” means the period during which Customer shall be entitled to use and access the Matterport APIs and/or Matterport SDK, as specified in the relevant Order.

“**Additional Functionality Subscription Fees**” means the fees payable to Matterport or an Authorized Reseller in respect of Customer’s Additional Functionality Subscription.

“**API Documentation**” means all operating and technical literature and all other related materials (including sample code) relating to the Matterport APIs, including Delegated Access, that are made available to Customer, in whatever form and by whatever means, from time to time.

“**API Key(s)**” means one or more keys that are provided in respect of Customer’s Platform account, and which enable Customer or a third party with Delegated Access to the Platform and the Matterport Content via a Matterport API.

“**Delegated Access**” means Customer’s grant of secure access to the Matterport API or SDK to an authenticated and authorised application, website or a natural person who may act on Customer’s behalf.

“**Developer Application**” means an application, software functionality, script, API call or web page that is developed and provided by Customer that uses a Matterport API and/or Matterport SDK.

“**Developer Application Content**” means any data, information, images, text, content, code, or other materials of any kind that are included in, provided through, or used in connection with the

Developer Application (but excluding, for the avoidance of doubt, any Matterport Content or Marks).

“**Distribution Channel**” means any third-party distribution channel for a Developer Application, including, without limitation: (a) the website of Oculus VR, LLC; (b) the Apple App Store; and (c) Google Play.

“**Matterport APIs**” means those application programming interfaces provided by Matterport that allow Customer to read and write content and data from a Developer Application and the Platform.

“**Matterport Content**” means any content or data on the Platform that is made available through the use of a Matterport API and/or Matterport SDK.

“**Matterport SDK**” means Matterport’s proprietary software development kit that may be used to develop features or functionalities in a Developer Application and that interoperate with Showcase(s).

“**Restricted Content**” means any content, code or terms that: (a) promote or are related to fraudulent, deceptive or illegal activities (illegal drugs, phishing, terrorism, criminal activities, contests, pyramid schemes or chain letters); (b) promote or are related to illegal gambling or weapons; (c) are related to pornographic or obscene material; (d) are related to excessively graphic or explicit violence; (e) are defamatory, inappropriate or profane; (f) are disparaging to Matterport or its licensors; (g) are discriminatory or constitute “hate speech”, whether directed at an individual or a group, and whether based upon the race, sex, creed, national origin, religious affiliation, sexual orientation or language of such individual or group; (h) promote or contain viruses, worms, trap doors, hidden sequences, hot keys, time bombs, corrupted files, cracks or other malicious code or materials that are intended to or may damage or render inoperable software, hardware or security measures of Matterport, any end user, or any other third-party; (i) contain advertising functionality that is intrusive, deceptive or contrary to generally accepted industry standards; or (j) are otherwise designated by Matterport as unacceptable content from time to time.

“**SDK Documentation**” means all operating and technical literature and all other related materials relating to the Matterport SDKs that are made available to Customer, in whatever form and by whatever means, from time to time.

## 2. Provision of Services

2.1. Subject to the payment of all Additional Functionality Subscription Fees that are due and payable as at the commencement of Customer’s Additional Functionality Subscription as specified on any Matterport Matterport Website or in the relevant Order with Matterport or an Authorized Reseller pursuant to Paragraph 13, and Matterport’s rights to suspend and terminate services as set out in the Terms of Use and in Paragraph 11 of the [PSA](#), Matterport hereby grants

to Customer, a non-exclusive, revocable, worldwide, non-transferable (except as expressly permitted under Paragraph 17 of the Terms of Use), non-sublicensable, limited right to use and access Matterport APIs and/or Matterport SDK as set forth in this Schedule 1 for Customer's internal business purposes ("Internal Purpose").

**2.2. NOTICE OF AUTOMATIC RENEWAL.** Subject to Paragraph 2.1 of this Schedule 1, Customer's subscription in respect of the Additional Functionality shall, unless specified otherwise in the relevant Order, commence on effective date specified in the relevant Order and remain in place for the duration of the specified subscription period (the "**Additional Functionality Subscription Period**"), following the expiry of which it shall automatically renew for successive periods of equivalent length to the Additional Functionality Subscription Period (each such period being a "**Additional Functionality Renewal Period**"), unless terminated earlier in accordance with its terms. Either Party may terminate an Additional Functionality Subscription for convenience by providing the other with written notice of not less than thirty (30) days prior to the expiration of the Additional Functionality Subscription Period or the then-current Additional Functionality Renewal Period. Customer's subscription in respect of each Additional Service may be cancelled at any time by accessing the account settings on Customer's Matterport Platform Account at <https://my.matterport.com/>. Customer agrees that upon such renewal, the credit card or other designated payment method or mechanism in Customer's account settings will be billed the applicable Platform Subscription Fee for Customer's Platform Subscription Plan then in effect at the time of renewal.

### **3. Access to Matterport APIs**

**3.1. Matterport API License.** To the extent that Customer's Order provides for the provision of Matterport APIs, subject to the terms set out in this PSA and in consideration of the payment of the relevant Additional Functionality Subscription Fees to Matterport or an Authorized Reseller, Matterport hereby grants to Customer a limited, revocable, non-exclusive, non-transferable, non-sublicensable (except as provided below in this Paragraph 3) license during the term of Customer's Additional Functionality Subscription to:

3.1.1. use the Matterport APIs to access the Matterport Content through the Matterport API and to use and display such Matterport Content in the Developer Application(s);

3.1.2. use the Matterport APIs to transmit Developer Application Content from the Developer Application(s) through the Matterport API to the Platform; and

3.1.3. copy and use the API Documentation for the sole purpose of integrating the Developer Application(s) with the Matterport API(s);

3.1.4. grant Delegated Access to Customer's Matterport account that allows a Customer or a third party application to access, retrieve and update the Matterport Platform and the Matterport Content via Matterport APIs and SDK.

**3.2. Provision of Access to Matterport APIs.** Upon the commencement of Customer's Additional Functionality Subscription and to the extent that Customer's Order provides for the provision of Matterport APIs, Matterport shall grant Customer the right to provision API Key(s) to Customer's Platform account that will allow access to the Platform and Matterport Content via the Matterport APIs. Customer is responsible for keeping its API Key(s) secure and confidential. Customer further acknowledges and agrees that Customer is responsible for all activities that occur through the use of such API Keys or Delegated Access.

**3.3. Sublicenses of Matterport Content.** Customer may not charge a fee to permit users to display and use the Matterport Content through the Developer Application. In such case, Customer shall enter into a commercial partner agreement ("Commercial Partner Terms") with Matterport which shall govern all such use. Without prejudice to the foregoing, Customer shall ensure that any additional terms that Customer imposes on such users with respect to their usage of the Matterport Content through the Developer Application do not: (a) impose or purport to impose any obligation on Matterport that would be inconsistent with this PSA; or (b) make or purport to make any representation, warranty, or covenant on behalf of Matterport. For the avoidance of doubt, notwithstanding anything to the contrary in this Schedule 1, all use and exploitation of Matterport Content howsoever arising remains subject to the terms otherwise set out in this PSA and Customer shall ensure that the Developer Application terms of use: (a) expressly state that, by using the Developer Application, users are agreeing to be bound by the terms set out in this PSA; (b) do not contain anything that conflicts with this Schedule or the terms otherwise set out in this PSA (and Customer shall not remove, obscure, or alter any references to such terms set out in the Commercial Partner Terms).

**3.4. Sublicenses to Third-Party Developers.** Customer may permit third-party developers to incorporate the Developer Application into third-party applications, provided that: (a) the Matterport API(s), including Delegated Access, is/are used solely within the Developer Application; (b) any such use is subject to written terms and conditions which expressly state that: (i) the third-party developer's use of the Developer Application is additionally governed by the terms of this Schedule (with such terms being incorporated via a hyperlink), and the developer's application will be deemed a Developer Application hereunder; and (ii) Matterport is a third-party beneficiary to Customer's agreement with the third-party developer. Customer may share API Keys with any such third-party developers through the use of available and authorized functionality on the Platform. Customer will not, in any such terms and conditions applicable to the Developer Application, or otherwise: (a) impose or purport to impose any obligation on Matterport that would be inconsistent with this Schedule; or (b) make or purport to make any representation, warranty or covenant on behalf of Matterport.

**3.5. Matterport Content.** Matterport will make available to Customer certain types of Matterport Content based on the type of Matterport API account that Customer establishes with Matterport and the type of API Key Customer uses, if applicable. Matterport reserves the right to withhold or suspend Customer's access, via the Matterport API(s), including Delegated Access, to certain types of Matterport Content at any time, in Matterport's sole discretion.

## 4. Access to Matterport SDKs

**4.1. Matterport SDK License.** To the extent that Customer's Order provides for the provision of Matterport SDKs, subject to the terms set out in this Schedule and in consideration of the payment of the relevant Additional Functionality Subscription Fees to Matterport or an Authorized Reseller, Matterport hereby grants to Customer a limited, revocable, non-exclusive, non-transferable, non-sublicensable (except as provided below in this Paragraph 4) license during the term of Customer's Additional Functionality Subscription to:

4.1.1. store and use a copy of the Matterport SDKs for Customer's internal business purposes and for the purpose of developing and testing a Developer Application;

4.1.2. where technically possible, embed necessary portions of the Matterport SDKs in compiled format solely within the Developer Application in a manner that does not permit extraction by third parties;

4.1.3. use the Matterport SDKs: (i) to create, generate and update Mattertags; (ii) to insert 3D objects (e.g., furniture) into a Showcase; (iii) for the additional purposes described in Paragraph 4.4 of this Schedule 1; and (iv) for the purposes specified in the SDK Documentation; and

4.1.4. copy and use the SDK Documentation for the sole purpose of exploiting the Matterport SDKs in accordance with the terms of this Schedule.

**4.2. Provision of Access to Matterport SDKs.** Upon the commencement of Customer's Additional Functionality Subscription and to the extent that Customer's Order provides for the provision of Matterport SDKs, Matterport shall grant Customer the right to provision SDK Key(s). Customer is responsible for keeping all such SDK Key(s) secure and confidential and further acknowledges and agrees that Customer is responsible for all activities that occur through the use of such SDK Keys.

**4.3. Matterport Content.** Customer will have the ability to embed within the Developer Application via Matterport SDKs certain types of Matterport Content that are publicly viewable on the Platform or by the use of Delegated Access granted to Matterport Platform. Matterport reserves the right to withhold or suspend Customer's access to certain types of Matterport Content in Matterport's sole discretion.

**4.4. Licensed Uses Specific to Matterport SDK.** Subject Paragraphs 4.1 and 7 of this Schedule 1, Customer may use the Matterport SDK solely within the Developer Application to: (a) distribute or make available to users or third-party developers all necessary portions of the Matterport SDK in compiled format (where possible) and solely embedded within the Developer Application; (b) trigger, from the Developer Application, actions in Matterport Spaces displayed in the Showcase; and (c) monitor events in Matterport Spaces displayed in the Showcase to trigger actions in the Developer Application. Customer may permit users to use the Matterport SDK solely within the Developer Application to trigger actions in Showcase from the Developer Application and to monitor events in Showcase to trigger actions in the Developer Application, provided that any and all such use is subject to written terms and conditions that are substantially

in accordance with the terms set out in this PSA. Customer may permit third-party developers to: (a) incorporate the Developer Application into such developers' application; and (b) use the Matterport SDK solely within the Developer Application to: (i) trigger actions in the Showcase from the Developer Application; and (ii) monitor events in the Showcase to trigger actions in the Developer Application, provided that Customer will make any such use subject to written terms and conditions which expressly state that: (i) the third-party developer's use of the Developer Application is additionally governed by the terms of this PSA (with such terms being incorporated via a hyperlink), and the developer's application will be deemed a Developer Application hereunder; and (ii) Matterport is a third-party beneficiary to Customer's agreement with the third-party developer. Customer is prohibited from sharing Customer's SDK Keys with any such third-party developers, who will be required to obtain SDK Keys directly from Matterport. Customer will not, in any such terms and conditions applicable to the Developer Application, or otherwise: (a) impose or purport to impose any obligation on Matterport that would be inconsistent with this Schedule, or the terms otherwise set out in this PSA; or (b) make or purport to make any representation, warranty or covenant on behalf of Matterport.

**4.5. Sub-contractors.** Customer may permit sub-contractors acting on Customer's behalf to exercise the foregoing rights licensed to Customer under this Paragraph 4, provided that: (a) such sub-contractors only exercise such rights in the course of performing services for Customer; and (b) Customer shall be responsible for Customer's sub-contractors, and any breach of this Schedule caused by Customer's sub-contractors shall be deemed a breach by Customer.

## 5. Maintenance and Support

**5.1. Availability of Matterport APIs.** To the extent that Customer's Additional Functionality Subscription permits the utilization of Matterport APIs, Matterport will use commercially reasonable efforts to maintain the availability of the Matterport APIs during the term of Customer's Additional Functionality Subscription, exclusive of downtime necessary for scheduled and emergency maintenance.

**5.2. Support.** During Customer's Additional Functionality Subscription Period, Matterport shall provide technical support with respect to errors and vulnerabilities in, and general enquiries with respect to the usage of, the then-current version of the Matterport APIs and Matterport SDKs, including Delegated Access (it being acknowledged, however, that such support shall in no circumstances comprise any development support or technical support with respect to Developer Applications).

**5.3. Changes to in-scope support and technical requirements.** Matterport will have the right at any time, with or without notice, to make changes to any Matterport API and/or Matterport SDK, including discontinuing features thereof and changing security and other protocols (it being acknowledged that such changes may impact older versions of the Matterport SDK, and any Developer Application built using older versions of the Matterport APIs and/or Matterport SDK). Matterport will use commercially reasonable efforts to minimize changes to technical requirements associated with Customer's use of the Matterport APIs and/or Matterport SDKs,

including Delegated Access, but reserves the right to make such changes where required in relation to (or as a result of) bug fixes, security updates, changes to the third-party software development kits for other platforms, or as otherwise deemed necessary in Matterport's sole discretion.

## 6. Fees

**6.1. General.** Additional Functionality Subscription Fees shall be payable in respect of Customer's Additional Functionality Subscription in accordance with the terms set out in Paragraph 5 of the PSA (*Fees and Payment*) or Paragraph 14 of the PSA (Reseller Orders), as applicable.

**6.2. Additional Agreements.** Matterport reserves the right to require Customer to enter into a separate agreement in respect of any commercial use (i.e. the charging of amounts to third parties via or in connection with a Developer Application to access the Platform (or any element of the functionality thereof)) of the Matterport APIs and/or Matterport SDKs, including Delegated Access, pursuant to the terms of which Customer shall be obligated (amongst other things) to pay fees to, or share revenue with, Matterport with respect to such commercial use. Matterport will have the right to terminate Customer's access to and use of the Matterport APIs and/or Matterport SDKs, including Delegated Access, (as applicable) for commercial purposes if Customer does not agree to enter into such an agreement.

## 7. Restrictions

**7.1. General.** Without prejudice to the generality of Paragraph 3.2 of this PSA, Customer shall use the Matterport APIs or Matterport SDKs for its Internal Purposes, and as set out in or as otherwise permitted by this Schedule. In particular, Customer shall not, directly, or indirectly, in full or in part:

7.1.1. access or attempt to access the Platform (or the Matterport Content) via the Matterport APIs in a manner that does not conform or otherwise adhere to the terms and procedures set out in the API Documentation;

7.1.2. use the Matterport SDKs in a manner that does not conform or otherwise adhere to the terms and procedures set out in the SDK Documentation;

7.1.3. modify any functionality of the core Matterport APIs or Matterport SDKs, circumvent any restrictions enforced by the Matterport APIs or Matterport SDKs, or remove/modify the headers sent by the Matterport APIs or Matterport SDKs;

7.1.4. use any Matterport API or Matterport SDK to download any third-party content, save where such content is Matterport Content that Matterport makes available to Customer via the Matterport API or Matterport SDKs;

7.1.5. combine or integrate any portion of any Matterport API or Matterport SDKs with any software or other content licensed under any “open source” license that would have the effect of subjecting the Matterport API, Matterport SDKs or Matterport Content to the terms and conditions of such license or imposing an obligation to distribute source code from the Matterport API, Matterport SDKs or Matterport Content;

7.1.6. use the Matterport APIs, any third-party API, Matterport SDKs, or Matterport Content to download raw data, to re-create any Matterport proprietary service or app or to create any product or service that competes with a Matterport product or service;

7.1.7. supply or authorize any Developer Application Content that contains Restricted Content; or

7.1.8. incorporate the Matterport Content as the primary content in the Developer Application(s).

7.1.9. sublicense, resell, distribute or charge fees to any third-party for the commercial use of any Matterport APIs or Matterport SDKs.

**7.2. Security.** Customer agrees to maintain technical and organizational security measures that are up-to-date and generally accepted in the industry as effective at preventing unauthorized access to or use of any Matterport API, Matterport SDK, Matterport Content, or API Keys. Matterport will have the right, in its sole discretion, to review and approve Customer’s implementation of the Matterport Content on the Developer Application prior to the date on which Customer commences displaying the Matterport Content to any End User through the Developer Application.

**7.3. Monitoring Matterport APIs Limits on Usage.** Matterport has the right to monitor Customer’s use of the Matterport APIs and Matterport Content (including (without limitation) usage in relation to any Developer Application), to ensure quality, improve Matterport products and services, verify Customer’s compliance with this PSA, and to calculate and assess the amount of the Additional Functionality Subscription Fees payable by Customer to Matterport or an Authorized Reseller, as applicable, based on Customer usage of the Matterport APIs. Customer shall not interfere with such monitoring or otherwise obscure from Matterport Customer’s use of the Matterport APIs and/or Matterport Content.

**7.4. Limits for Abusive Usage.** Customer will not use the Matterport APIs and/or the Matterport SDKs in a manner that constitutes Abusive Usage. To the extent that Matterport, in its sole discretion, determines that Customer’s usage of the Matterport APIs and/or Matterport SDKs, including Delegated Access, constitutes Abusive Usage, in addition to other remedies available herein, Matterport reserves the right to impose limits on Customer’s Matterport API usage, which Matterport may change at any time with or without notice to Customer.

**7.5. Additional Restrictions for Specified Matterport SDKs.** Without prejudice to the remainder of this Paragraph 7.5, to the extent that Customer is provided with a Showcase SDK, except as expressly authorized in this Schedule or as otherwise specifically agreed by Matterport in writing, Customer shall, and shall cause any relevant third-party to: (a) only use the Matterport SDK to monitor or trigger actions in Matterport Spaces that are either publicly available via the Matterport Platform or, where the relevant Matterport Space is not publicly available, via a proper authorization from the relevant owner (as determined by Matterport); (b) only use the Matterport SDK within Developer Applications that are freely available and accessible to the public (i.e. are not behind a firewall or paywall); (c) refrain from using the Matterport SDK within Developer Applications that display paid advertisements or generate revenue indirectly through affiliate programs or promotional or strategic alliances with third parties; and (d) modify data on the Platform in strict compliance with any content restrictions set forth in this PSA.

**7.6. Private Model Embed.** Customer is responsible for the privacy and visibility of Matterport Spaces using Matterport's Private Model Embed (PME) solution to securely embed private models. Matterport reserves the right to audit Customer's PME usage and charge Customer for additional PME usage beyond the applicable PME usage limit at the then current list prices. Customer shall notify Matterport if Customer's PME usage exceeds the applicable PME usage limit as may be set out in any Order by greater than 5%.

## **8. Confidentiality**

The Matterport APIs, Matterport SDKs, including Delegated Access, and any API Keys and SDK Keys (collectively, "Keys") will be deemed the confidential information of Matterport. Customer shall: (a) strictly preserve and protect the confidentiality of the Matterport APIs, Matterport SDKs and Keys and not disclose such Matterport APIs, Matterport SDKs or Keys to any third party other than Customer's employees, subcontractors and agents who have a need to receive such Matterport APIs, Matterport SDKs and Keys and who are subject to nondisclosure obligations as protective as those set forth herein; and (b) refrain from using the Matterport APIs, Matterport SDKs or Keys except as contemplated in this Agreement. Customer shall use no less care to prevent unauthorized disclosure or use of the Matterport APIs, Matterport SDKs and Keys than Customer uses to maintain the confidentiality of Customer's own non-public information, and in no event less than a reasonable degree of care. Customer shall be responsible for ensuring that Customer's employees, subcontractors, and agents fully comply with the restrictions of this Paragraph, and any Keys provided to Customer will remain Customer's responsibility. Customer acknowledges that the unauthorized disclosure or use of the Matterport APIs, Matterport SDKs or Keys may cause irreparable harm to Matterport, which harm cannot be compensated by damages alone. Therefore, in addition to all other rights and remedies at law and in equity, Matterport may seek an injunction to prevent a violation of the obligations of confidentiality. The foregoing confidentiality restrictions shall not apply to any portion of the Matterport APIs or Matterport SDKs that Matterport provides through a public webpage.

## 9. Proprietary Rights

**9.1. Retention of Rights.** As between Customer and Matterport: (a) Customer retains all rights, title, and interest (including all Intellectual Property Rights) in and to the Developer Application(s) and Developer Application Content; and (b) Matterport retains all rights, title, and interest (including all Intellectual Property Rights) in and to the Matterport APIs, Matterport SDKs and, save to the extent expressly stated otherwise in this PSA, the Matterport Content.

**9.2. Marks.** Without prejudice to the generality of Paragraph 9.9 of the PSA (Marks), Matterport hereby grants to Customer a limited, revocable, royalty-free, non-exclusive, non-transferable, non-sublicensable license during the term of Customer's Additional Functionality Subscription to use and display the Marks solely via the Matterport SDKs and in connection with the display of Matterport Content within the Developer Application. The exercise of the foregoing license shall be carried out subject to the following conditions:

9.2.1. prior to displaying Customer's trademark, service mark or trade name on any Matterport Content, such that the same is displayed alongside or in conjunction with one or more Marks, Customer shall obtain the prior written consent of Matterport to such use and, where required by Matterport in its sole discretion, enter into a trademark license agreement on such terms as are reasonably acceptable to Matterport; and

9.2.2. all use of the Marks shall be carried out in accordance with any branding guidelines (or similar) that Matterport provides (or otherwise makes available) to Customer from time to time.

**9.3. Unacceptable use of the Marks.** Matterport shall have the right, in its sole discretion, to determine whether any use of the Marks in connection with or in relation to a Developer Application complies with the requirements of this PSA (including, for the avoidance of doubt, the terms set out in this Schedule).

## 10. Indemnification

Subject to the Terms of Use and PSA, Customer shall indemnify, hold harmless, and, at Matterport's option, defend the Indemnified Parties from and against any and all Losses resulting any Third-Party Claim based on: (a) any use of the Developer Application(s) or any allegation that the Developer Application(s) or the Developer Application Content violate any applicable law or regulation, or misappropriate or infringe the rights (including Intellectual Property Rights or any right of publicity or privacy) of any person or entity or otherwise contain any Restricted Content; (b) any allegation that Customer failed to obtain all necessary third-party licenses and permissions required to download, cache and display any Matterport Content through any Matterport API or Matterport SDK; or (c) Customer's use, distribution, display or publication of any Matterport Content (or component of any of the foregoing).

## 11. Termination

**11.1. Termination by Customer.** Subject to the Terms of Use and PSA, Customer may terminate Customer's Additional Functionality Subscription at any time by providing written notice to Matterport and by removing the Matterport API code and Matterport SDK code from all Developer Application(s) (thereby discontinuing Customer's use of the Matterport APIs, Matterport SDK(s) and Matterport Content hereunder). For the avoidance of doubt, no refunds shall be due following such termination and any unused future commitment (i.e., commitment for a year with monthly billing) shall become immediately payable in full.

**11.2. Termination by Matterport.** Matterport may terminate Customer's Additional Functionality Subscription in accordance with the termination provisions set out in Paragraph 9.8 of the Terms of Use.

**11.3. Effect of Termination.** Upon the expiration or termination of Customer's Additional Functionality Subscription, Customer shall immediately: (a) cease all use of the Matterport APIs and Matterport SDKs, including Delegated Access; (b) cease all use of the Matterport Platform Content in connection with the Developer Application, except to the extent Customer has the right to continue doing so pursuant to another agreement with Matterport; (c) delete all copies of the Matterport SDKs and Matterport Content that are in Customer's possession or under Customer's control (but excluding, for the avoidance of doubt, any Matterport Content that is stored on the Platform), and, upon written request of Matterport, certify in writing that Customer has complied with such deletion obligation.

## Matterport PSA Schedule 2

### Professional Services Terms

The terms set out in this Schedule are applicable to Customer's purchase of any Professional Services, and form a part of the PSA.

### 1. Definitions

In these Professional Services Terms, the following words and expressions shall have the following meanings, unless the context requires otherwise:

“**Blurring**” means the obfuscation of sensitive data (as identified on the Order) from a Matterport Space.

“**Mattertagging**” means to apply tags that would call out specific features, add details, or context to different aspects of the Matterport Space as defined in an Order for Professional Services

**“Photo Editing”** means the process of collecting relevant images from a Matterport Space and making enhancements to the visual quality of such images (including, without limitation, by adjusting the framing and cropping of such image, color-grading, performing spot corrections, camera reflection removal and/or applying blue sky treatment).

**“Professional Services”** means any service provided to Customer by Matterport pursuant to an Order for the purpose of enhancing a Matterport Space, including but not limited to Stitching, Photo Editing, Blurring, and the application of Mattertags.

**“Professional Services Fees”** means the Fees payable in respect of the Professional Services, as indicated on the Order.

**“Professional Services Term”** means the period commencing upon the date specified in the relevant Order on which the provision of the Professional Services shall commence and ending upon the earlier of: (i) the end date specified in such Order; or (ii) the date on which the Professional Services are satisfied.

**“Stitching”** means the process of combining multiple stand-alone Matterport Spaces into a Matterport Space so it can be viewed in a single Showcase with a single URL within the Platform.

**“Stitching Job”** means an individual request submitted to Matterport to combine two or more Matterport Spaces and delivered as one (1) final Matterport Space.

## **2. Performance of Professional Services**

2.1. Subject to the terms of this PSA and in consideration of the payment of the Professional Services Fees, Matterport hereby agrees to perform the Professional Services.

2.2. In performing the Professional Services, Matterport undertakes that it shall at all times act: (a) in accordance with the terms and conditions set out in this PSA (including, for the avoidance of doubt, this Appendix 5); (b) with reasonable skill and care; and (c) in a timely and professional manner.

## **3. Customer Obligations**

Without prejudice to the generality of the main body of this PSA, Customer shall in relation to the provision of the Professional Services: (a) use its reasonable endeavours to respond promptly to any request for guidance or instruction which is reasonably required by Matterport to enable it to perform its obligations under this Agreement; and (b) co-operate and liaise with Matterport as necessary or desirable for the performance of the Professional Services.

## **4. Fees**

The Fees payable by Customer for the performance of the Professional Services shall be as set out in the Order and shall be payable in accordance with the terms set out in the main body of this PSA. Should the Customer's actual usage exceed the Fees stated in the Order, Matterport will invoice additional fees in the month following the occurrence of the overage.

In the event that the full amount of the Professional Services Fee is exhausted by Customer prior to the expiry of the Professional Services Term, Matterport shall be entitled to immediately invoice Customer the full amount of the Professional Services Fees that remain outstanding.

## **5. Term**

The Term of the Order is the earlier of the Professional Services Term End Date or the date in which the Professional Services commitment is satisfied. If the Professional Services commitment is satisfied prior to the Professional Services Term End Date, all remaining balances and additional fees, if applicable, will be immediately due. Once the Professional Services Term is completed, Customer will need to secure a new contract with Matterport to continue ordering Professional Services.

## **6. Unused Services**

The Professional Services herein must be completed within the Professional Services Term. Any portion of the Professional Services Fee (as identified in the Order) not used within the Professional Services Term will be automatically forfeited by Customer, with no further action required of either Party. Customer will not be entitled to a refund, or credit toward other Services, for any unused portion of the Professional Services as identified in the Order and for which Fees have been paid.

## **7. Limited Warranty**

Matterport hereby warrants that the Professional Services will be performed in a professional and workmanlike manner. For any breach of this warranty, Customer's sole and exclusive remedy, and Matterport's entire liability shall be the re-performance of the non-conforming Professional Services. In the event that Customer regards the foregoing warranty as having been breached, it shall notify Matterport of this in writing within ten (10) days of the completion of the

performance of the relevant Professional Services. Matterport shall have no liability in respect of any warranty claim brought after the expiry of this period. THE WARRANTY AND REMEDY IN THIS PARAGRAPH 7 IS IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, USEFULNESS, OR TIMELINESS.

## 8. Additional Terms Applicable to Stitching Jobs

8.1. A Stitching Job will be considered complete and deemed accepted by the Customer once Matterport has made the combined single Matterport Space available to be viewed by Customer in a Showcase.

8.2. Matterport may, in its sole discretion, reject any Stitching Job for any reason, including, but not limited to Matterport Spaces requiring repair and/or with misalignments.

8.3. Stitching Jobs captured with a Matterport Pro2 or Pro3 Camera process up to 2,000 combined Scan Points or up to 50,000 combined square meters (538,000 square feet), including outdoor areas. If the total scan points or total area exceeds either of these thresholds, there is no guarantee that the stitching will be successful.

# Matterport Enterprise Addendum

This Enterprise Addendum (“EA”) supplements the [Platform Services Agreement](#) (“PSA”) and [Terms of Use](#) for Customers purchasing an enterprise level Matterport Subscription Plan (the [PSA](#), Terms of Use and EA collectively referred to as the “**Agreement**”).

This EA only applies to Customers who purchase an Enterprise Plan for your Matterport Subscription Plans (as updated from time to time).

## 1. Enterprise Services

In consideration of Customer payment of the applicable fees set forth in an Order, Matterport shall provide Enterprise Services, as defined in this Paragraph 1, to Customer pursuant to this Agreement. The Enterprise Services shall include, but are not limited to, the following:

1.1. **Customer Support:** During the Subscription Period, Matterport shall provide technical support (including clarification of the functions and features of Platform Subscription Services and guidance regarding their operation but excluding any form of specific consulting (or similar)) during the following hours:

Customers located in North America: 07:00 – 17:00 PST

Customers located in the Asia Pacific Region: 08:00 – 17:00 SGT

Customers located in Europe, the Middle East and Africa: 08:00 – 18:00 BST

**1.2. Support Requests.** Support requests may be submitted: (a) by filing a ticket via the support function on the Platform; (b) via the Chat Function; or (c) by contacting Matterport’s support line via the relevant local number set out below. For the avoidance of doubt, no technical support shall be provided in respect of Additional Services. Support will be provided in respect of Additional Functionality (where relevant) in accordance with Schedule I to the PSA (SDK and API Terms).

<b>Jurisdiction</b>	<b>Phone Number</b>
United States of America	+1 408 805 3347
United Kingdom	+44 157 040 0054
France	+33 180 207 814
Germany	+49 695 060 7997
Spain	+34 518 888 665
Italy	+39 014 423 0022
Singapore	+65 3138 4858
Japan	+81 50 3138 8831

**1.3. Service Levels.** Subject to the terms and conditions of this Agreement, Matterport shall use commercially reasonable efforts to make the Platform available, exclusive of downtime necessary for scheduled and emergency maintenance, in accordance with the following:

**1.3.1. Definitions.** For the purposes of this Service Level Agreement (“SLA”), “Downtime” means unavailability of the Platform. Any terms otherwise used in this SLA but not defined herein shall have the meaning given to them in the main body of the Agreement.

**1.3.2. Availability.** Matterport shall ensure that the Platform is available 99.5% of the time, calculated on a calendar monthly basis.

**1.3.3. Downtime.** The “Monthly Uptime Percentage” is determined by number of minutes the Platform is available during a calendar month as a percentage of the total number of minutes in such calendar month, excluding Downtime arising in those circumstances identified in Paragraph 3 below (“Excluded Downtime”), and is calculated with the following formula:

$((\text{total minutes} - \text{downtime which is not Excluded Downtime} - \text{Excluded Downtime}) / (\text{total minutes} - \text{Excluded Downtime})) * 100$

1.3.4. **SLA Exclusions.** This SLA does not apply to any Additional Services or Additional Functionality or any Downtime of the Platform arising due to a) scheduled maintenance for which Customer has received written notice (email or service notice is sufficient) at least 48 hours in advance of such maintenance outage, (b) reasons of Force Majeure, (c) outages resulting from network service provider outages or Internet outages resulting from failures outside the control of Matterport, or (d) outages resulting from Customer's system, hardware or software application failures.

1.4. **User Training.** Matterport shall provide Customer with training materials and webinars to help Customers users become proficient in using Matterport's Platform.

## 2. Usage Limits

### 2.1. Usage Limits.

- (a) For the purpose of paragraph 2.1 of this EA, the following terms have the following meanings:
  - **“Active Matterport Space”** means a Matterport Space that is in use, visible and currently accessible in Customer's Showcase.
  - **“Archived Matterport Space”** means a Matterport Space that has been archived (but not deleted) and is not currently visible in or accessible via Customer's Showcase.
  - **“Usage”** means the relevant use of a Service (whether by reference to a total number used or otherwise) at any measurement in time or in respect of a relevant period of time.
  - **“Usage Limit”** means the purchased limit for Usage as specified in the Order. For the avoidance of doubt, different Usage Limits can be purchased in respect of Usage Limited Products.
  - **“Usage Limited Products”** are the Services which have a Usage Limit, including, but not limited to Matterport Enterprise, Active Spaces, Archived Spaces and SpaceFlex.
  
- (b) **Usage Limited Products.** Matterport may notify Customer in the event that Customer's Usage of Usage Limited Products is nearing the Usage Limit and, in such circumstances, Matterport may work with Customer to seek to reduce Customer's Usage so that it continues to conform to the Usage Limit. Notwithstanding the foregoing, if

Customer's Usage of the Usage Limited Products meets or exceeds the Usage Limit, Customer shall either:

- (i) enter into a new Order with Matterport or an Authorized Reseller to purchase the next level of Usage Limit of the particular Usage Limited Products for a period of at least one year; or
  - (ii) purchase additional quantities of the Usage Limited Products by following the on-screen message. This method of purchase will be on a monthly basis and Matterport shall bill for the maximum Usage used during the month, provided however that in the event that Customer fails to take either of those steps outlined in paragraph 2.1(b)(i) or (ii), Matterport may be entitled to suspend the Services or Matterport or an Authorized Reseller may invoice Customer in respect of Usage which exceeds the Usage Limit monthly in arrears and, without prejudice to any amounts to be invoiced as set out in the Order for Usage Limited Products, the Fees payable by Customer in respect of such additional Usage shall be calculated by reference to the unit price set out in the Order, increased by 20%. Archived Matterport Space overages shall be charged at 50% of the rate determined for Active Matterport Spaces.
- (c) **Additional Services.** Matterport may notify Customer in the event that Customer's Usage of Additional Services is nearing the Usage Limits. Notwithstanding the foregoing, if Customer's Usage of the Additional Services meets or exceeds the Usage Limit, Customer shall purchase additional quantities of such Additional Services via <http://my.matterport.com> or from any Authorized Reseller. If Customer fails to make such a purchase, Matterport may be entitled to suspend the Services or Matterport or an Authorized Reseller may invoice Customer in respect of Usage which exceeds the Usage Limit monthly in arrears and, without prejudice to any amounts to be invoiced as set out in the Order for Additional Services, the Fees payable by Customer in respect of such additional Usage shall be calculated by reference to Matterport's then-current standard rates.
- (d) Customer acknowledges and agrees that: (a) any individual who makes a purchase as described in paragraph 2.1(b) or (c) of this EA is authorized to make such purchase and the actions of any such individual will be binding on Customer; and (b) any additional purchases made in accordance with paragraph 2.1(b) and/or paragraph 2.1(c) of this EA shall be governed by and in accordance with terms of Customer's first Order setting forth such Usage Limits, or any subsequent Order which increased Customer's Usage Limits.

- (e) All Usage Limited Products must be consumed within the applicable Subscription Period. Any additional quantity purchased for Usage Limited Products that remain at the end of Customer's Subscription Period shall not be credited to future Subscription Periods and any such remaining amount shall be forfeited by Customer.

### 3. Privacy, Data Security & Confidentiality

3.1. **Data Protection.** The following shall supplement Paragraph 8.1 of the PSA.

3.1.1. The Parties hereby undertake to comply at all times during the term of this Agreement with their respective obligations pursuant to the data privacy Laws. Without prejudice to the generality of the foregoing, in providing the Services, Matterport shall at all times comply with its [Privacy Policy](#) and, where applicable, the Data Processing Addendum and Standard Contractual Clauses, available at: <https://matterport.com/legal/data-processing-addendum>, which are incorporated herein

3.2. **Security Measures.** The following shall supplement Paragraph 8.2 of the PSA.

3.2.1. Matterport shall monitor the Services for the purposes of preventing (and, where relevant detecting) any Security Incident. If Matterport has reason to suspect or has confirmed the existence of a Security Incident that impacts Customer Personal Data, it shall: (a) notify Customer of such Security Incident without undue delay, but in any event within seventy-two (72) hours, and provide Customer with all such information as may be required for Customer to meet its obligations under applicable law; and (b) at its cost, take all necessary steps to bring the Security Incident to an end and prevent the reoccurrence of such Security Incident. Matterport will provide Customer with Matterport's latest SOC2 accreditation and supporting documentation upon Customer's reasonable request from time to time. For the avoidance of doubt, Matterport does not provide or otherwise offer 'in-person' audits under any circumstances but will provide annual penetration test reports and other appropriate documentation, certifications, and attestations. Further details may be found on the Matterport Website, here: <https://matterport.com/trust>.

3.3. **Confidentiality.** The following shall replace Paragraph 8.3 of the PSA in its entirety.

3.3.1. "**Confidential Information**" means all information in whatever form received or obtained by a Party (the "Receiving Party") from, or on behalf of, another Party (the "Disclosing Party") as a result of, or in connection with, this PSA (including any reports, summaries or analyses to the extent prepared from such information) other than: (a) any information which was rightfully in the possession of the Receiving Party prior to the disclosure by the Disclosing Party and acquired on a non-confidential basis from sources other than the Disclosing Party; (b) any information which is in the public domain otherwise than as a result of a breach of this Agreement by the Receiving Party; (c) is received from a third party without breach of any

obligation owed to the Disclosing Party; or (d) was independently developed by the Receiving Party.

3.3.2. All Confidential Information communicated by a Party to the other Party shall be treated as confidential, regardless of its form, nature, or the way it has been communicated and each Party agrees that it shall use such Confidential Information solely in connection with the performance of its obligations and the exercise of its rights pursuant to this Agreement.

3.3.3. The Parties each agree that their respective employees and sub-contractors (if any) will be communicated Confidential Information of the other Party only on a need-to-know basis and shall ensure that such persons are subject to obligations of confidentiality that are no less stringent than those imposed in this Agreement

3.3.4. Following the termination or expiry of this Agreement, without prejudice to any other term of this Agreement, each Party shall, if requested to do so by the other Party, as soon as reasonably practicable, procure that all Confidential Information in its possession or under its control is returned, deleted or destroyed (save to the extent prohibited by relevant laws or regulations) in accordance with the written instructions of the other Party and shall confirm in writing to the other Party that it has done so.

3.3.5. Each Party undertakes to apply to the Confidential Information at least the same security measures and degree of care as it applies to its own confidential information.

3.3.6. Nothing in this Paragraph 3 shall (a) restrict Matterport's right to use and disclose any Matterport Technology and Matterport Data (each as defined in the PSA) as provided elsewhere in this Agreement; or (b) apply to Matterport's use and disclosure of Customer Image Data or Aggregated Data, or (c) prohibit Matterport's distribution to third parties or public display of any Matterport Space or Customer Image Data to the extent such distribution or publication was directed by Customer or any Authorized User via the Services or otherwise. The provisions of this Paragraph 3.3 shall survive the termination of this Agreement and the return, deletion, or destruction of the Confidential Information.

## **4. Additional Indemnity**

4.1. In addition to the indemnification obligations in Paragraph 12 of the Terms of Use:

4.1.1. Matterport hereby agrees to defend, indemnify, and hold harmless Customer, its Affiliates and their respective officers, directors, employees, sub-contractors, and representatives ("**Customer Indemnitees**"), and pay those amounts finally awarded by a court of competent jurisdiction against the Customer Indemnitees (including all associated Losses) or payable pursuant to a settlement agreed by Matterport with respect to such claims, to the extent such claims arise out of: (a) any Third-Party Claim that Customer's use of the Services in accordance with its terms infringes any third-party's intellectual property rights; or (b) Matterport's violation of its obligations pursuant to Paragraph 2.3 (Confidentiality). provided that, in respect of any claim made pursuant to this Paragraph 4.1.1(a): (a) Customer shall promptly, and in any event

within five (5) days of the relevant Third-Party Claim arising, provide Matterport with written notice of the Third-Party Claim; (b) Customer provides all reasonable information and cooperation to Matterport in the defence and settlement of the Third-Party Claim (at Matterport's expense); and (c) Matterport is given sole authority to defend or settle the Third-Party Claim. Matterport shall not be liable for any costs or expenses incurred by Customer without Matterport's written authorisation.

4.1.2. Matterport will be relieved of its obligations under this Paragraph 3 to the extent that a Third-Party Claim arises from or relates to (a) the Customer's breach of this Agreement; (b) the Customer's violation of applicable law or regulation; (c) the combination, operation, or use of Matterport's Services with any non-Matterport product or service; (d) the modification of Matterport's Services at Customer's request; or (e) the negligence or wilful misconduct of the Customer.

4.1.3. If any Third-Party Claim is upheld, threatened or reasonably anticipated and for which Customer seeks indemnification pursuant to Paragraph 3.1.1(a), Matterport shall have the right, at its sole discretion to either: (a) modify the relevant Service (or portion thereof) such that it is non-infringing; (b) acquire any relevant right so as to ensure the relevant Service (or portion thereof) is no longer infringing; or (c) terminate the Order pursuant to which the relevant Service is made available to Customer or otherwise terminate this Agreement, in each case without liability to Customer.

4.1.4. Customer acknowledges and agrees that Paragraphs 4.1.1 and 4.1.2 set out Matterport's entire liability, and Customer's sole remedy, in respect of a Third-Party Claim that Customer's use of the Services in accordance with the terms of this Agreement infringes any third-party's Intellectual Property Rights.

4.1.5. Customer hereby agrees to defend, indemnify and hold harmless the Indemnified Parties from and against all Third-Party Claims, including all associated Losses, to the extent based on or arising out: (a) the conduct of Customer's business or the use of or inability to use the Services; (b) Customer's breach of any of its covenants, undertakings, representations and/or warranties set forth in this Agreement; or (c) the fraud, gross negligence or wilful misconduct of Customer or Customer's Authorized Users.

## **5. Miscellaneous**

This Agreement (including any and all documentation included by reference therein), contains the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersede all prior discussions, agreements, understandings, and arrangements (both written and oral) between the Parties.

## **6. Force Majeure**

Neither Party shall be responsible or liable for any delay or failure in performance under this Agreement arising as a result of any occurrence of a Force Majeure. The delayed Party shall send written notice of the delay and the reason thereof to the other Party as soon as possible, and the time for performance of the relevant Party's obligations hereunder shall automatically be extended for a period equal to the duration of any such delay. The delayed Party shall (a) use all reasonable endeavours to avoid or minimise the consequences of the event of Force Majeure; (b) carry out its obligation in such other way as may be reasonably practicable; and (c) use all reasonable endeavours to bring the Force Majeure in question to an end as soon as reasonably practicable. This Paragraph 5 shall not be construed as relieving either Party from its obligation to pay any sums due to the other Party.